

**TOWN OF DEDHAM
PLANNING BOARD MEETING MINUTES
Lower Conference Room, Town Office Building
December 10, 2009**

TIME: 7:05 p.m.

PRESENT: John Bethoney, Chairman
Michael Podolski, Vice Chairman
Robert Aldous, Clerk
Ralph Steeves
James O'Brien

STAFF PRESENT:
Christopher Ryan, Town Planner
Susan Webster, Administrative Assistant

CALL TO ORDER: Mr. Bethoney called the meeting to order at 7:05 p.m.

HEBREW SENIOR LIFE: FINAL OCCUPANCY RECOMMENDATION REQUEST

This hearing began at 7:05 p.m.

PRESENT: Peter A. Zahka II, Esq.
Michael Crowley, Vice President, NewBridge on the Charles/Hebrew Senior Life
Joseph Geller, Project/Landscape Architect

Mr. Zahka requested that the Planning Board recommend final occupancy of Hebrew Senior Life (HSL). He stated that the Building Commissioner is ready to issue the final occupancy permit, but is seeking Planning Board acquiescence to do so. A meeting was held recently with Joseph Flanagan, David Field, Christopher Ryan, Kenneth Cimeno, Don Yonika, William Keegan, and John Bethoney to review the 57 conditions in the special permit. The project is essentially complete and the DPW director and the engineer are satisfied regarding infrastructure. They did not believe a bond was needed. Len Fishman met with the Town Administrator and HSL will be making a \$650,000 payment to the Town in May 2010, and will follow that with a minimum of \$650,000 in subsequent years. Mr. Crowley discussed the matrix that they created to highlight areas where conditions were not satisfied. Each of the 57 conditions was summarized by category (pre-construction conditions, continuing conditions, prospective conditions, and administrative/procedural conditions), and response was made. Temporary occupancy permits have been received for all buildings and the health care center, but Mr. Cimeno will not allow a final certificate of occupancy until all town departments have signed off. The Rashi School certificate of compliance will be issued once it is completed in the late spring or early summer of 2010.

Mr. Podolski stated that the Board needs the expert views of the department heads and verification in writing before they can sign off. In particular, he expressed concern that there is no security plan, and Mr. O'Brien expressed concern about fire department issues. Mr. Crowley stated that Mr. Geller produces a final affidavit. Mr. Bethoney pointed out that the special permit requires as-built plans, and asked what the trigger was for these. Mr. Crowley indicated that, prior to the actual issuance of a final certificate of occupancy, they are to provide the as-builts. They have committed to giving the Town that document on or before February 1, 2010. Mr. Bethoney said that the DPW and Engineering cannot provide insight into the project until those are received. In addition, the Police Department and Conservation Commission have concerns, but not all departments have responded with their concerns. Mr. Crowley responded that they give additional information on the plans as requested, but to the extent that any corrective work, other than that identified, they will make any correction required. He added that there is a mechanism within the special permit that, to the extent a condition may not be completed at the time of issuance of final occupancy permits, the Board may request a form of security in the form of a bond from HSL to ensure continued compliance. Mr. Podolski requested something in writing so the Board can enforce it if necessary, and suggested that Town Counsel prepare this to protect the Town. He has no objection to cash surety from HSL. Mr. Bethoney wants to attempt to get the DPW/Engineering to provide some level of opinion/satisfaction regarding the project. HSL has a deadline to meet with lenders by December 15, 2009, and it is not clear that the Board can get

the information necessary to finalize the project. Mr. Steeves also stated the necessity of having expert opinion regarding completion, and Mr. Aldous reiterated the necessity of having written documentation and supporting information for the files regarding completion of all conditions. Mr. Ryan indicated that there may be a disconnect in supplying information due to the absence of the Police Chief and the appointment of a new Fire Chief, who may not be aware of the conditions. This will be resolved by HSL. The Board indicated its disappointment that the department heads have not communicated their reports, and were not present for this evening's meeting. Mr. Bethoney stated that he has conversed with William Keegan, Town Administrator, and all correspondence to department heads will be sent to him as well. Mr. Ryan explained the process that the Planning Board office used to notify each of them. Most could not attend due to conflicts or other meetings.

Mr. Bethoney stated that the Planning Board will likely not be meeting again until January 2010, which is well beyond HSL's deadline of December 15. The only solution is a vote by the Board to recommend, subject to satisfactory receipt of documentation from all department heads that they are satisfied. These departments are the Police, Fire, DPW, Engineering, Board of Health, and Building Department. The Conservation Commission has responded and is satisfied. Otherwise the vote, if there was one tonight, would be rescinded. Mr. Podolski and Mr. Aldous had no objection to that, but stated the need to receive department head letters by December 15, 2009. Mr. Podolski also stated that they needed an agreement that HSL will rectify any issues that may arise. If HSL is unable to provide an as-built by December 15, the Board would look for a surety, but this would be the only non-resolved issue. Mr. Zahka suggested that the Board give the Building Department the nod for a final occupancy permit with posting of a \$250,000 bond. In the meantime, they will work with the department heads to get the required letters. Then in January 2010, they will return to the Board to release most, if not all, of the bond. Every effort will be made to get as many sign-offs as possible to leave as few outstanding concerns as possible after issuance of the certificate of occupancy. Discussion will take place on December 14th as to how to resolve any outstanding issues. If those issues are significant, a bond of \$250,000 will be established. As-builts will be received by February 1, 2010. These are produced by contractors at the end of the job, and will not be ready until the Certificate of Occupancy is approved.

Mr. Podolski made a motion that the Planning Board vote to make a recommendation to the Building Department to issue a Certificate of Occupancy subject to satisfactory receipt by the Planning Board prior to that issuance from department heads from the Town of Dedham relating to their review of the outstanding conditions of the special permit for HSL. If, in fact, those reports come back unsatisfactory to the Planning Board to such a degree that that vote could be rescinded, alternatively, the applicant shall post a \$250,000 bond to cover any deficiency in the reports provided or lack of reports. The applicant is obligated to immediately begin to resolve these issues prior to issuance of an occupancy permit and receive a response from the Planning Board based on those reports prior to that issuance. Further, as-builts shall be delivered to the Town no later than February 1, 2010. Mr. Aldous seconded the motion. The vote of the Board was unanimous. Mr. Ryan will inform Mr. Cimeno of the decision. This hearing ended at 8:01 p.m.

**WASHINGTON 850 LLC, 850-888 WASHINGTON STREET (PRKG-12-09-1160, RDO DISTRICT):
REQUESTING *DE MINIMIS* CHANGE FOR PARKING LOT**

This hearing began at 8:06 p.m.

PRESENT: Peter A. Zahka II, Esq.
Tony Natale, Property Manager, Washington 850 LLC

Mr. Zahka stated that the owners were contacted by the Building Department regarding fencing around a dumpster. The plan submitted showed that the dumpster enclosure takes over two parking spaces. He requested that the closure be determined a *de minimis* change to the parking plan. The Board requires 396 spaces and the applicant provides 438 spaces. Mr. Podolski made a motion to approve the enclosure of the dumpster as a *de minimis* change, and Mr. Aldous seconded the motion. The vote of the Board was unanimous. This hearing ended at 8:11 p.m.

BOCH ICE CENTER, 1105 EAST STREET (PRKG-11-09-1146, RDO/SRB DISTRICT)

This hearing began at 8:12 p.m.

PRESENT: Peter A. Zahka II, Esq
Peter Cokinos, Applicant
Tim Lovell, teacher at hockey camp

Mr. Zahka stated that the Zoning Board of Appeals has determined that adding a fitness center to Boch Ice Center is an accessory use as long as it is operated per their letter (see letter in file). The current layout of the parking lot shows 96 spaces on the approved parking plan. There are an additional 42 spaces on an unpaved area for overflow. Full capacity of the ice center would be for 40 participants and 210 spectators, which adds up to 90 spaces. The fitness center can only be used for an hour before a game or an hour after a game. If the ice is being used for a game, there is no school, camp, or practice. Therefore, there are sufficient spaces and the applicant does not feel that a parking plan is required. The average number of participants during peak time of 5- 9 p.m. would be 45 plus parents, coming to roughly 70 people per hour. Police details would be available when and if necessary. The Certificate of Occupancy is nearly complete with only the steel needing a sign-off. Mr. Podolski suggested that a 90-120 day trial period be undertaken to determine the impact of parking and traffic. Mr. Steeves made a motion that parking plan approval not be required pending a 120-day try-out. The applicant will return in 120 days to update the Board. Mr. Podolski seconded the motion. The vote of the Board was unanimous. This hearing concluded at 8:39 p.m.

CINGULAR WIRELESS PCS, LLC, 8 INDUSTRIAL WAY (SITE 10-09-1132, LM DISTRICT)

This hearing began at 8:41 p.m.

PRESENT: Elizabeth Mason, Esq., Anderson & Kreiger LLC
Andrew Thompson, Centerline Communications LLC
Stephen Longdon, Network Building and Consulting, Agent for AT & T
Arvin Sebastian, RF Engineer, AT & T
Irma Guino, RF Engineer, AT & T

This hearing was continued from November 18, 2009. Ms. Mason presented photo simulations showing the smokestack before and after, as well as photos up on the tower, and the equipment shelter at the base. She also presented plans that reflect the Board's request for no barbed wire and awt 2 wire for grounding per Mr. Aldous' direction. The structural report indicated that the smokestack is not overstressed. Mr. Aldous again requested the plans to be changed to indicate .02 (aught 2) grounding wire. Mr. Steeves requested a report from Assistant Building Commissioner Fred Johnson indicating his satisfaction with the structural report. Mr. Podolski made a motion to approve the application pending receipt of plans reflecting .02 grounding wire and approval by Mr. Johnson. Mr. Steeves seconded the motion. The vote of the Board was unanimous.

DISCUSSION ITEMS

- **Legacy Place: Deed of Lot 77 to Town of Dedham:** Mr. Ryan has not yet reviewed the deed. Mr. Bethoney stated that this will be reviewed at the next meeting.
- **Stephen Rahavy letter re: 1000 Washington Street:** Mr. Ryan has not spoken to Mr. Rahavy. Mr. Bethoney stated that Mr. Rahavy has a proposal but did not indicate what it is. He was advised to contact Mr. Ryan regarding a working session. Mr. Ryan recalled a conversation regarding storage of vehicles for preparation for Dedham Auto Mall. Mr. Steeves indicated that Mr. Rahavy should also speak with the Town of Westwood.
- **Next Meeting:** January 13, 2010.

Mr. Podolski made a motion to adjourn, and Mr. Steeves seconded it. The vote was unanimous to adjourn at 9:07 p.m.

Respectfully submitted,

Robert D. Aldous, Clerk

/snw